

**FOURTH AMENDMENT TO  
FOOD AND BEVERAGE CONCESSION AGREEMENT  
BETWEEN  
THE CITY OF SAN JOSE  
AND  
HOST INTERNATIONAL, INC.**

This FOURTH AMENDMENT TO FOOD AND BEVERAGE CONCESSION AGREEMENT is entered into this \_\_\_\_ day of \_\_\_\_\_, 2018 ("Amendment Date"), by the CITY OF SAN JOSE ("City"), a municipal corporation of the State of California, and HOST INTERNATIONAL, INC., a Delaware corporation authorized to do business in the State of California ("Host" and "Concessionaire").

**RECITALS**

**WHEREAS**, on January 29, 2009, City and Concessionaire entered into an agreement entitled "NORMAN Y. MINETA SAN JOSE INTERNATIONAL AIRPORT FOOD AND BEVERAGE CONCESSION AGREEMENT BY AND BETWEEN THE CITY OF SAN JOSE AND HOST INTERNATIONAL, INC." ("Agreement"); and

**WHEREAS**, on July 18, 2011, City and Concessionaire entered into a First Amendment to the Agreement to temporarily close Chiamonte's Deli and Bar Location TA + 2, due to the deactivation of Gates 1 through 6 and to reduce Concessionaire's Minimum Annual Guarantee; and

**WHEREAS**, on November 15, 2011, City and Concessionaire entered into a Second Amendment to the Agreement to revise provisions regarding customer pricing, amend the Concession Area and concepts, memorialize changes to the Minimum Annual Guarantee commencement date and annual adjustment date, and make clerical corrections; and

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**WHEREAS**, on December 09, 2014, City and Concessionaire entered into a Third Amendment to the Agreement to change the required dates for the mid-term refurbishments, amend the Concession Area and concepts, and memorialize changes to the Minimum Annual Guarantee; and

**WHEREAS**, City and Concessionaire desire to further amend the amended Agreement to extend the term through June 30, 2026, add 260 square feet of Concession Support Space, revise the Standards of Operations provision, revise the Maintenance and Repairs provision, add a definition for “Like New”, revise the Fees & Deposits with respect to the Percentage Fee, incorporate a Capital Investment for redevelopment of \$6,000,000, revise the MAG Abatement provisions, ~~further~~ revise the Concession Area, revise the Pricing Policy, and add provisions as required under federal law and regulations and the San José Municipal Code;

**NOW, THEREFORE**, the parties agree to further amend the amended Agreement as follows:

**SECTION 1. SECTION 1 “SUMMARY OF TERMS AND DEFINITIONS”**, is hereby amended to revise the ~~following~~ definition of “Expiration Date” as follows:

“**Expiration Date**” (SECTION 2.1): shall mean June 30, 2026, subject to earlier termination as provided in this Agreement.”

~~“**MAG Commencement Date**” is deleted.”~~

**SECTION 2. SECTION 1 “SUMMARY OF TERMS AND DEFINITIONS”**, is hereby amended to add the following definition:

“**Like New**” shall mean first-class condition, and inviting with no unreasonable signs of wear.”

**SECTION 3.** SECTION 2, “TERM OF AGREEMENT” subsection 2.1 entitled “Term” is hereby amended to read as follows:

**“2.1 Term**

This Agreement shall be binding on both parties from the Effective Date set forth in the Summary. The term of this Concession Agreement shall continue until June 30, 2026, unless sooner terminated in accordance with the terms of this Agreement.”

**SECTION 4.** SECTION 4, “RESTRICTIONS ON ACTIVITIES”, subsection 4.10 is hereby amended to read as follows:

**“4.10 Standards of Operations**

During the term of this Agreement, Concessionaire agrees, by appropriate and acceptable means to the Airport Director and at its sole cost and expense, to maintain, operate and keep the Concession Operations and Concession Area safe, clean, sanitary and Like New condition at all times, in accordance with the provisions of the Agreement, and in full compliance with any and all applicable Laws, rules and regulations, and applicable standards, to the satisfaction of the Director.

Concessionaire shall demonstrate an exemplary level of customer service at all times within their Concession Area. The exemplary level of customer service shall mean:

- Locations are fully staffed to insure minimal wait times;
- Staff shall treat customers in a friendly, helpful and caring manner;
- The location is maintained in a clean and orderly fashion; and
- All food products on menu are available at all times, unless the food item is not available from supplier.”

**SECTION 5. SECTION 4, “RESTRICTION ON ACTIVITIES”,** subsection 4.11.10 entitled “**Concession Support Space,**” is hereby amended to add subsection 4.11.10.6 as follows:

“**4.11.10.6** Notwithstanding subsection 4.11.10.5 above, in consideration for the terms of this Fourth Amendment, City shall provide Concessionaire with approximately two hundred sixty three (2603) square feet of Concession Support Space to support its Concession Operations at no additional cost.”

**SECTION 6. SECTION 6, “FEES & DEPOSITS” subsection 6.1.1.1.** entitled “**Concession Fee Calculation**” is hereby amended to revise subsection 6.1.1.1.a to read as follows:

“a. The Percentage Fees as originally stated in the Agreement apply up to the Amendment Date. From and after the Commencement Amendment Date, of this Fourth Amendment, Concessionaire shall pay a Percentage Fee of Concessionaire’s Gross Revenues as follows:

Food and Non-Alcoholic Beverages	14.0% of Gross Revenues up to \$15,000,000
	15.0% of Gross Revenues from \$15,000,001 to \$20,000,000
	16.0% of Gross Revenues over \$20,000,000
Alcoholic Beverages	16.0% of Gross Revenues up to \$3,500,000
	18.0% of Gross Revenues from \$3,500,001 to \$6,000,000
	20.0% of Gross Revenues over \$6,000,000”

Notwithstanding any provision of this Agreement to the contrary, the Concession Fee shall not be subject to the MAG set out in Section 6.1.2 below at any time prior to the MAG Commencement Date.

**SECTION 7. SECTION 6, “FEES & DEPOSITS” subsection 6.1.2.1** entitled “**Annual MAG Adjustment**” is hereby amended to revise subsection 6.1.2.1.2 to read as follows:

**“6.1.2.1.2** The Annual Adjustment Date for the MAG shall occur on July 1 each year. On each Annual Adjustment Date, the MAG shall be adjusted to equal eighty-five percent (85%) of the Concession Fee actually due to the City during the previous twelve (12) months. Prior to July 1, 2018, the MAG for any year shall not be less than then the first year’s MAG. Commencing on the July 1, 2018 Annual Adjustment Date, the MAG for any year shall not be less than the previous year’s MAG. An Annual MAG Adjustment shall be made at the end of each and every Annual Adjustment Date with respect to any underpayment or overpayment of the Concession Fee. If Concessionaire has overpaid the Concession Fee, City shall apply the overpayment to any monthly installment then due and payable to City. Notwithstanding the foregoing, the MAG reduction set forth in Section 6.1.2 is not subject to the requirement that the MAG for any year shall not be less than the first year’s MAG.”

**6.1.2.1.2.a** Following the Annual Adjustment Date that occurs in 2020, the MAG shall remain unchanged for the 2021 and 2022 Annual Adjustment Dates. Commencing with the 2023 Annual Adjustment Date, the MAG shall be calculated in accordance with **Section 6.1.2.2.** above. However, the MAG resulting from the 2023 Annual Adjustment Date calculation shall not be less the MAG calculated as of the 2020 Annual Adjustment Date.”

**SECTION 8. SECTION 6, “FEES & DEPOSITS” subsection 6.1.2.3** entitled “**MAG Abatement due to decline in Passenger Activity**” is hereby amended to read as follows:

**“6.1.2.3 MAG Abatement due to decline in Passenger Activity**

**6.1.2.3.1** Among other passenger related statistics, the City calculates the number of enplaned passengers at the Airport. If the number of enplaned passengers from January 1 through December 31 of any given year, as

calculated by the Airport, falls below eighty percent (80%) of the number of enplaned passengers during the corresponding baseline period of January 1, 2017 through December 31, 2017, upon the next Annual MAG Adjustment Date, the MAG shall be reduced as described in this Section.

**6.1.2.3.2** There shall be no reduction in the MAG pursuant to this provision unless the number of enplaned passengers decreases by more than twenty percent (20%) from the corresponding baseline period during the applicable year. If the MAG is reduced, the MAG reduction shall continue until the enplaned passenger levels increase to equal or exceed eighty-five percent (85%) of the number of enplaned passengers during the baseline period of January 1, 2017 through December 31, 2017, as applicable.

**6.1.2.3.3** The Airport shall calculate the number of enplaned passengers no later than sixty (60) days after the end of each applicable year during the Term of this Agreement.

**6.1.2.3.4** The amount of the MAG reduction shall be determined by taking the number of enplaned passengers during the applicable year, divided by the number of enplaned passengers during January 1 through December 31, 2017. This fraction shall be multiplied by the MAG in effect immediately preceding the MAG reduction.

**6.1.2.3.5** If the MAG is reduced pursuant to this Section, the City thereafter will calculate the number of enplaned passengers every year for the preceding year. On each Annual MAG Adjustment Date, the MAG shall be adjusted pursuant to the formula above.

**6.1.2.3.6** Should the number of enplaned passengers thereafter increase so that the number of enplaned passengers exceeds eighty-five percent (85%) of enplaned passengers during January 1, 2017 through December 31, 2017, then effective on the next Annual MAG Adjustment Date, the MAG will no longer be subject to the reduction described in this Section. The MAG shall then be set pursuant to Section 6.1.1.1 above.

**6.1.2.3.7** Concessionaire shall not be entitled to any MAG reduction or other monetary compensation as a result of terminal evacuations ordered by the City or any other governmental authority.”

**SECTION 9. SECTION 15, “MAINTENANCE AND REPAIRS” subsection 15.2**

entitled “**Concessionaire’s Obligations**” is hereby amended to revise subsections 15.2.1 and 15.2.2 to read as follows:

**“15.2.1** During the term of this Agreement, Concessionaire shall keep, at its sole cost and expense, the Concession Improvements and the Concessionaire's Furnishings, Trade Fixtures and Equipment, and every part thereof, in Like New, good and clean condition, perform all custodial services, make all necessary repairs, and make all repairs or modifications required by Law.

**15.2.2** Concessionaire shall, at its cost and expense, keep or cause its Subconcessionaires to keep the Concessionaire Locations in Like New, clean, neat, orderly, sanitary and presentable condition at all times.”

**SECTION 10. SECTION 22.4, “Minimum Capital Improvement Expenditure”** is

hereby amended to add the following subsection 22.4.2 “Minimum Capital Improvement Redevelopment Expenditure”:~~to read as follows:~~

**“22.4.2 Minimum Capital Improvement Redevelopment Expenditure**

**22.4.2.1** Effective upon this Fourth Amendment to the Agreement, Concessionaire shall invest a minimum of Six Million dollars (\$6,000,000) in the redevelopment of concessions, and shall be subject to the San José International Airport Tenant Guidelines as shown in **EXHIBIT L** to this Agreement.

**22.4.2.2** There is no maximum limit to the level of investment permitted of the Concessionaire.

**22.4.2.3 The Minimum Capital Expenditure Improvement Expenditure**

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for redevelopment of concessions shall be expended on the Concession Improvements constructed by Concessionaire. If the stated minimum is not expended, Concessionaire shall pay to City an amount equal to the difference, if any, between the Minimum Capital Improvement Expenditure and its actual investment within ninety (90) days after opening of the Location for which the expenditure was required.”

## **22.4 Minimum Capital Improvement Expenditure**

### **22.4.1 Minimum Capital Improvement Expenditure**

~~22.4.1.1 — Effective upon this Fourth Amendment to the Agreement, Concessionaire shall invest a minimum of Six Million dollars (\$6,000,000) in the development of concessions, and shall be subject to the San José International Airport Tenant Guidelines as shown in **EXHIBIT L** to this Agreement. The Capital Investment as stated in this Fourth Amendment to the Agreement, shall not be subject to the Minimum Mid-Term Concession Refurbishment Expenditures provisions of Section 22.5.~~

~~22.4.1.2 — Intentionally Omitted.~~

~~22.4.1.3 — There is no maximum limit to the level of investment permitted of the Concessionaire.~~

~~The Minimum Capital Improvement Expenditure shall be expended on the Concession Improvements constructed by Concessionaire. If the stated minimum is not expended, Concessionaire shall pay to City an amount equal to the difference, if any, between the Minimum Capital Improvement Expenditure and its actual investment within ninety (90) days after opening of the Location for which the expenditure was required.”~~

**SECTION 11. SECTION 22.6, “Allowable Improvement Costs”** is hereby amended to read as follows:

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## **“22.6 Allowable Improvement Costs**

The following Concession Improvement Costs (collectively referred to as “Concessionaire’s Allowable Improvement Costs”) may be counted toward Concessionaire’s Minimum Capital Improvement Expenditures and Minimum Mid-term Concession Improvement Expenditure:

**22.6.1** Costs incurred by Concessionaire for: improvements; furnishings; fixtures (both removable and non-removable); interior walls and doors; plumbing, electrical and mechanical improvements; lighting; wall finishes; ceiling finishes; flooring; removable and non-removable counters; and removable and non-removable equipment that is necessary to the operation of the Concession Area and Common Areas.

**22.6.2** Intentionally Omitted.

**22.6.3** City’s Planning, Building and Code Enforcement Department fees (as provided in **SECTION 22.9.2**).

**22.6.4** Costs and expenses which are payable by Concessionaire for City engineering and inspection fees (“E&I Fees”) as provided in **SECTION 22.9.3**.

**22.6.5** Directly contracted construction costs.”

**SECTION 12. SECTION 22.7, “Unallowable Improvement Costs”** is hereby amended to read as follows:

## **“22.7 Unallowable Improvement Costs**

The following capital improvement costs shall **not** be counted as part of Concessionaire’s Minimum Concession Improvement Expenditure:

**22.7.1** Concessionaire’s costs for design and engineering, internal design, review, management and oversight of Concession Area construction.

**22.7.2** Concessionaire’s licensing or franchising costs.

**22.7.3** Any other future renovation and remodeling of Concession Improvements that Concessionaire, at its option, elects to make during the Term.”

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**SECTION 13. SECTION 31 “TITLE VI CLAUSES FOR COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS”** is hereby added as follows:

“During the performance of this Agreement, the Concessionaire, for itself, its assignees, and successors in interest (hereinafter referred to in this SECTION 31 as the “Concessionaire”) agrees as follows:

1. **Compliance with Regulations:** The Concessionaire (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities set forth in SECTION 32, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.
2. **Non-discrimination:** The Concessionaire, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Agreement Concessionaire will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the Concessionaire for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Concessionaire of the Concessionaire’s obligations under this contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The Concessionaire will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal

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Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Concessionaire will so certify to the City or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of a Concessionaire's noncompliance with the Non-discrimination provisions of this Agreement, the City will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the Concessionaire under the Agreement until the Concessionaire complies; and/or
  - b. Cancelling, terminating, or suspending a Agreement, in whole or in part.
6. **Incorporation of Provisions:** The Concessionaire will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Concessionaire will take action with respect to any subcontract or procurement as the City or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Concessionaire becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Concessionaire may request the City to enter into any litigation to protect the interests of the City. In addition, the Concessionaire may request the United States to enter into the litigation to protect the interests of the United States."

**SECTION 14. SECTION 32 "TITLE VI LIST OF PERTINENT NONDISCRIMINATION AUTHORITIES"** is hereby added as follows:

“(Source: Appendix E of Appendix 4 of FAA Order 1400.11, Nondiscrimination in Federally-Assisted Programs at the Federal Aviation Administration)

During the performance of the Agreement, the Concessionaire, for itself, its assignees, and successors in interest (hereinafter referred to in this SECTION 32 as the “Concessionaire”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);

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- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

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- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq)."

**SECTION 15. SECTION 33 "OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970"** is hereby added as follows:

"This Agreement incorporates by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Concessionaire must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Concessionaire retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Concessionaire must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration."

**SECTION 16. SECTION 34 "FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)"** is hereby added as follows:

"This Agreement incorporates by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

The Concessionaire has full responsibility to monitor compliance to the referenced statute or regulation. The Concessionaire must address any claims

or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.”

**SECTION 17.** **SECTION 35, “GENERAL CIVIL RIGHTS PROVISIONS,”** is hereby added as follows:

“The tenant/concessionaire/lessee and its transferee agree to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport through the Airport Improvement Program.

In cases where Federal assistance provides, or is in the form of personal property; real property or interest therein; structures or improvements thereon, this provision obligates the party or any transferee for the longer of the following periods:

- (a) The period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or
- (b) The period during which the airport sponsor or any transferee retains ownership or possession of the property.”

**SECTION 18.** SECOND REVISED EXHIBIT B, “Concession Area” is amended to read as shown in **THIRD REVISED EXHIBIT B, “Concession Area”** attached and incorporated into ~~this Fourth Amendment.~~the Agreement.

**SECTION 19.** EXHIBIT Q, “Pricing Policy,” is amended to read as shown in **REVISED EXHIBIT Q, “Pricing Policy”** attached and incorporated into ~~this Fourth Amendment.~~the Agreement.

**SECTION 20.** All of the terms and conditions of the amended Agreement not modified by this Fourth Amendment shall remain in full force and effect.

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WITNESS THE EXECUTION HEREOF on the day and year first written above.

“CITY”

APPROVED AS TO FORM:

CITY OF SAN JOSE, a municipal  
corporation of the State of California

\_\_\_\_\_  
KEVIN FISHER  
Chief Deputy City Attorney

\_\_\_\_\_  
TONI TABER, CMC  
City Clerk

Date: \_\_\_\_\_

“CONCESSIONAIRE”

HOST INTERNATIONAL, INC.,  
a Delaware corporation authorized to do  
business in the State of California

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

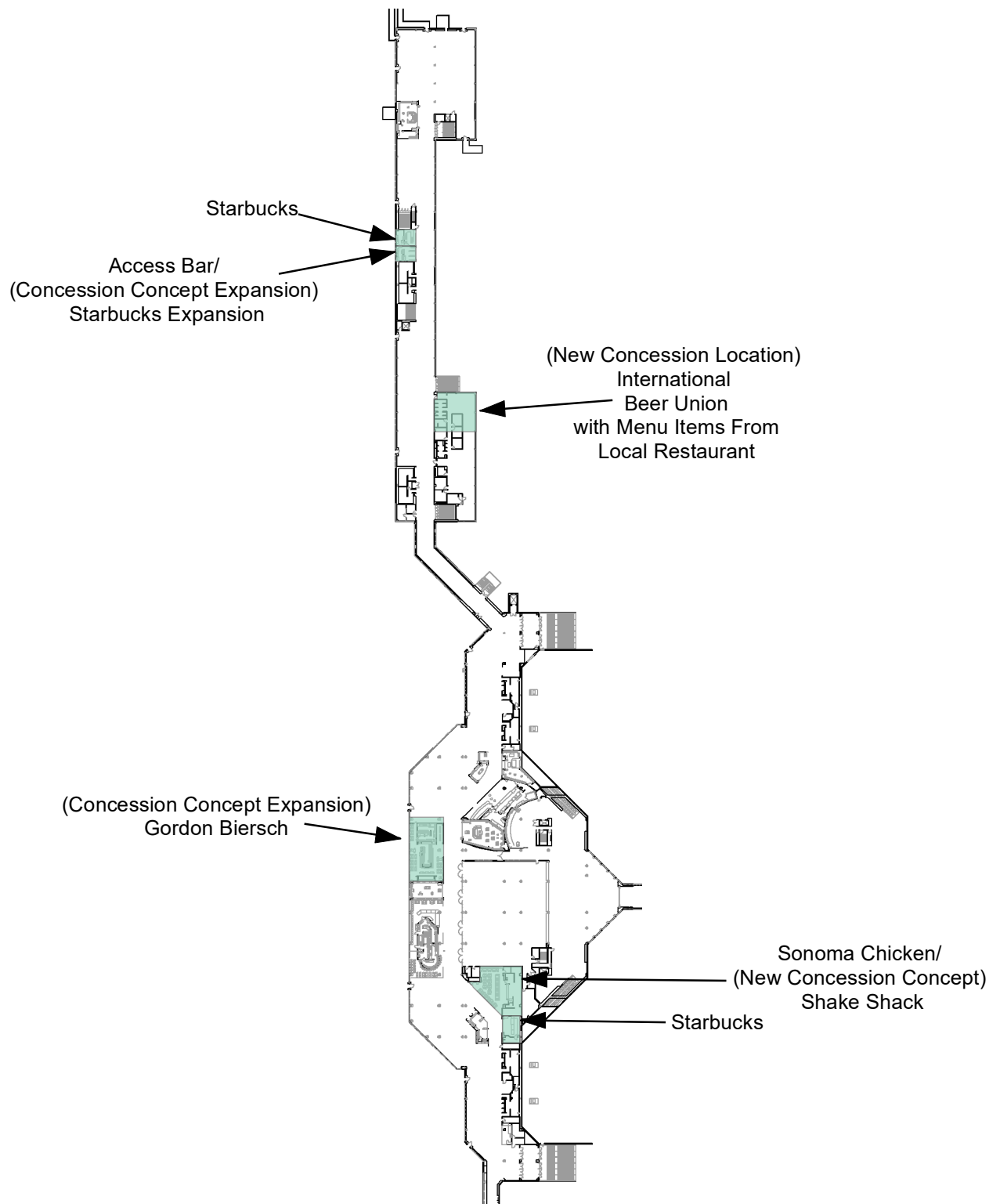
**THIRD REVISED EXHIBIT B**

(see attached)

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Third Revised Exhibit B

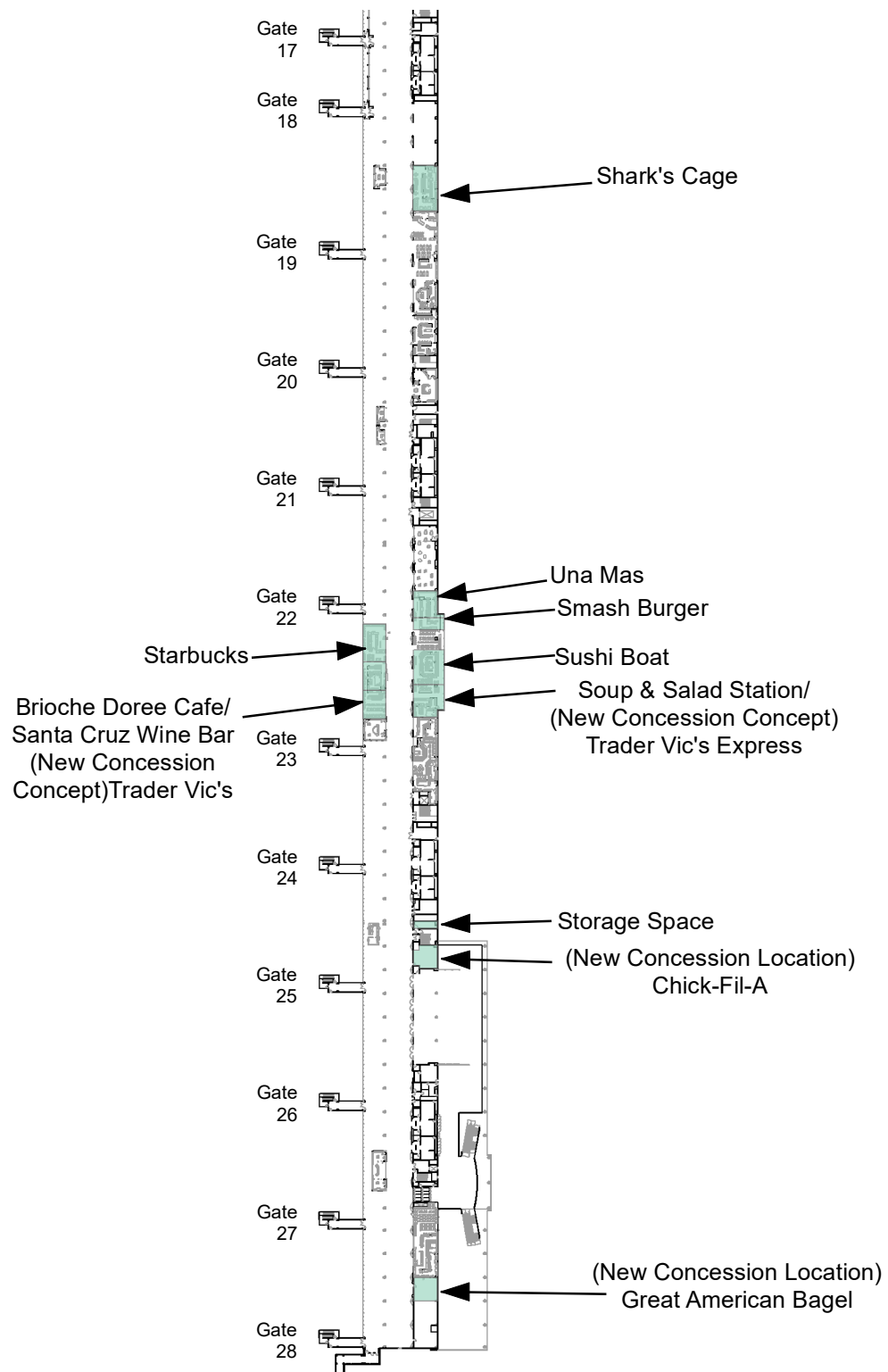


Date: 2/21/2018

Host International, Inc.  
Terminal A Floor 2 Overall Plan  
B-1



Third Revised Exhibit B



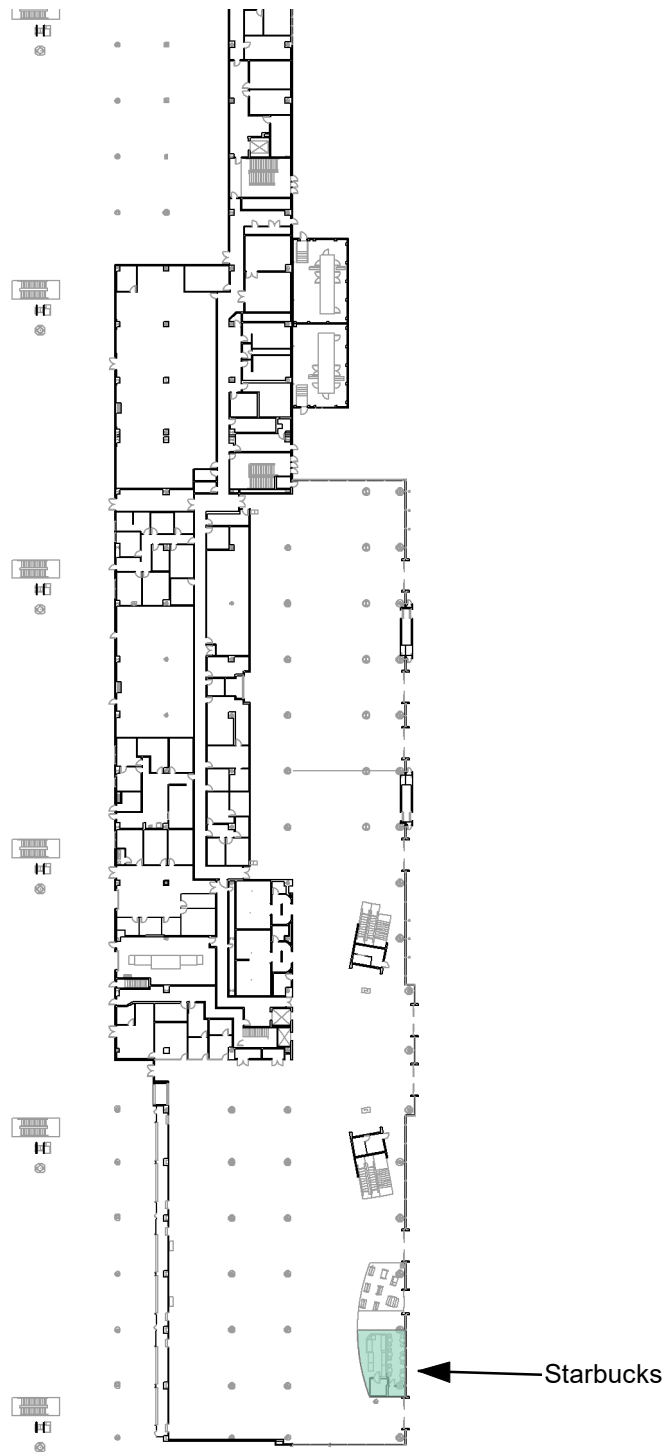
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Host International, Inc.  
Terminal B Floor 2 Overall Plan  
B-2



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Third Revised Exhibit B

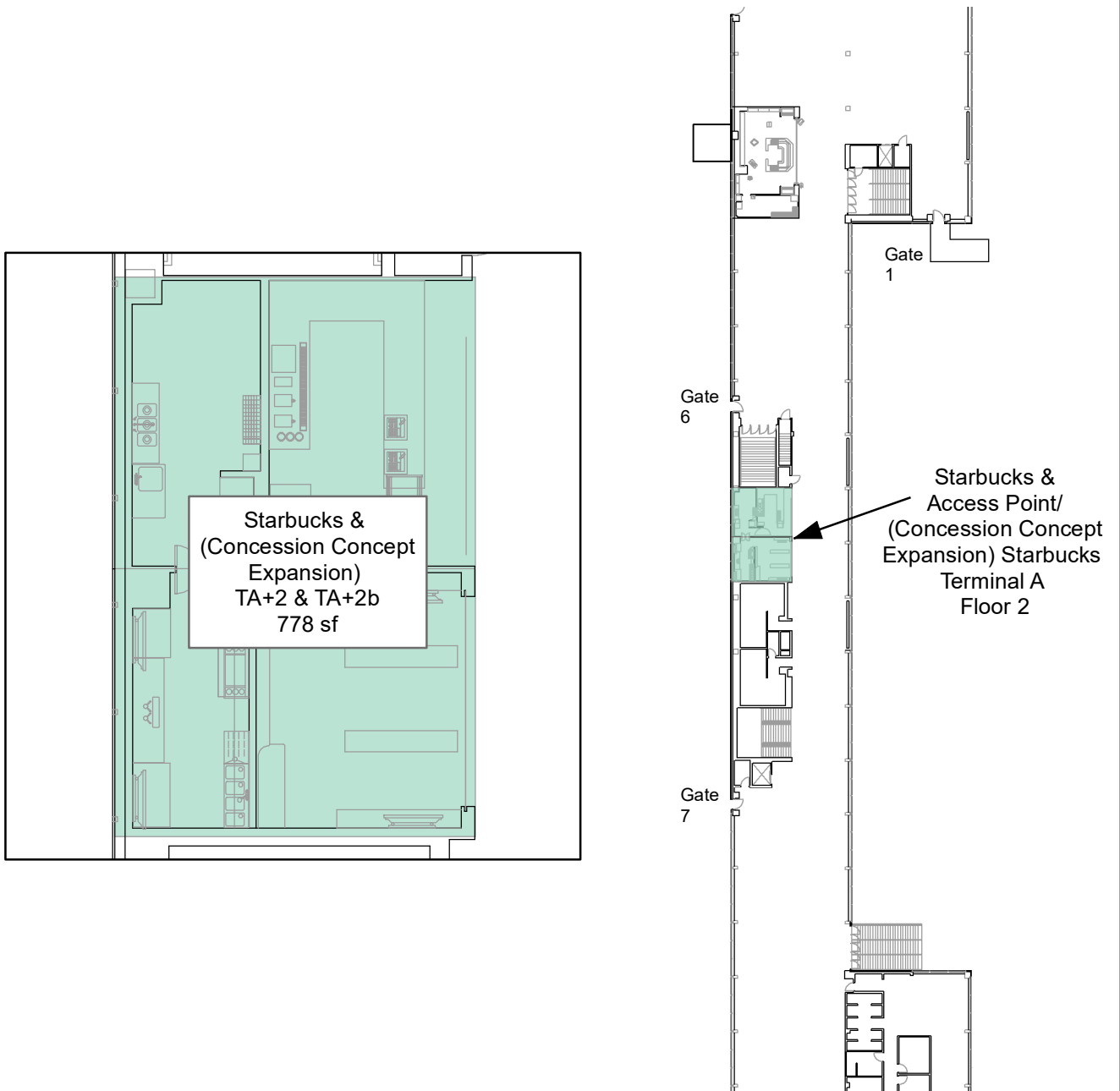


Date: 2/6/2018

Host International, Inc.  
Terminal B Floor 1 Overall Plan  
B-3



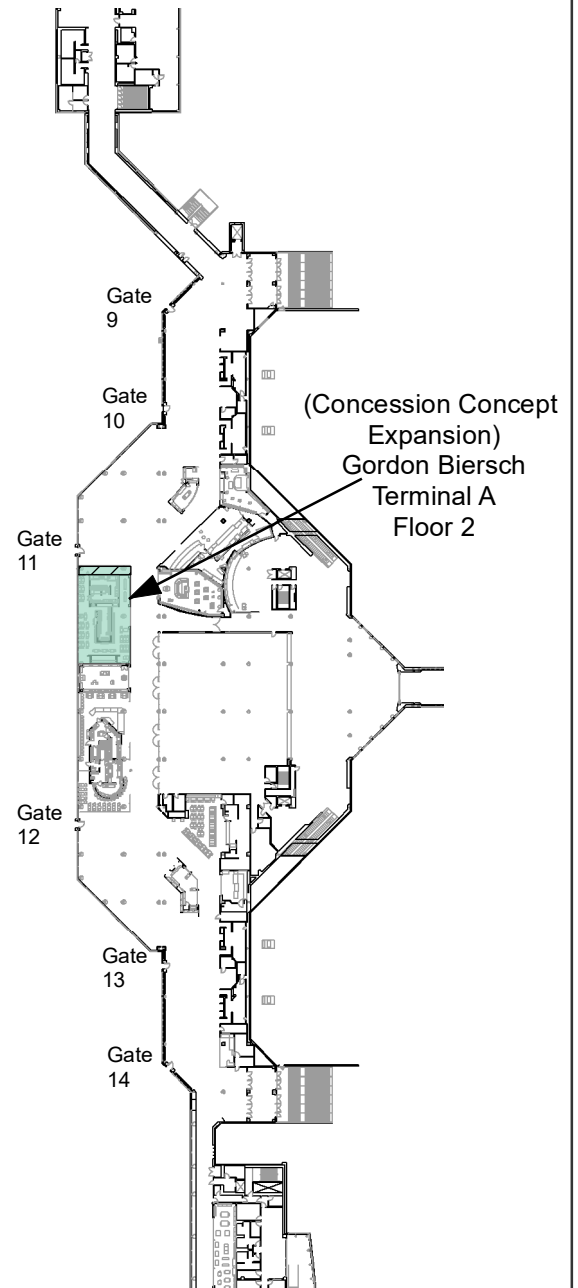
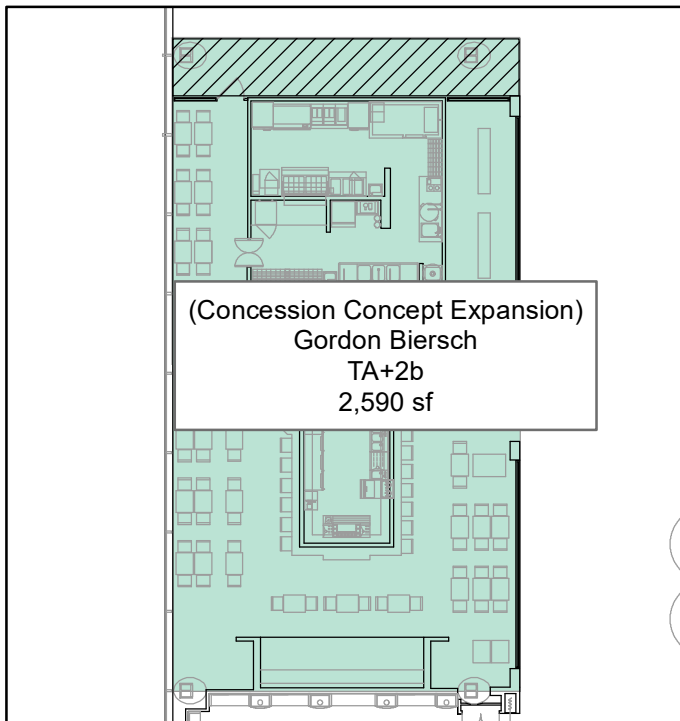
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Date: 2/21/2018

Host International, Inc.  
Terminal A Floor 2  
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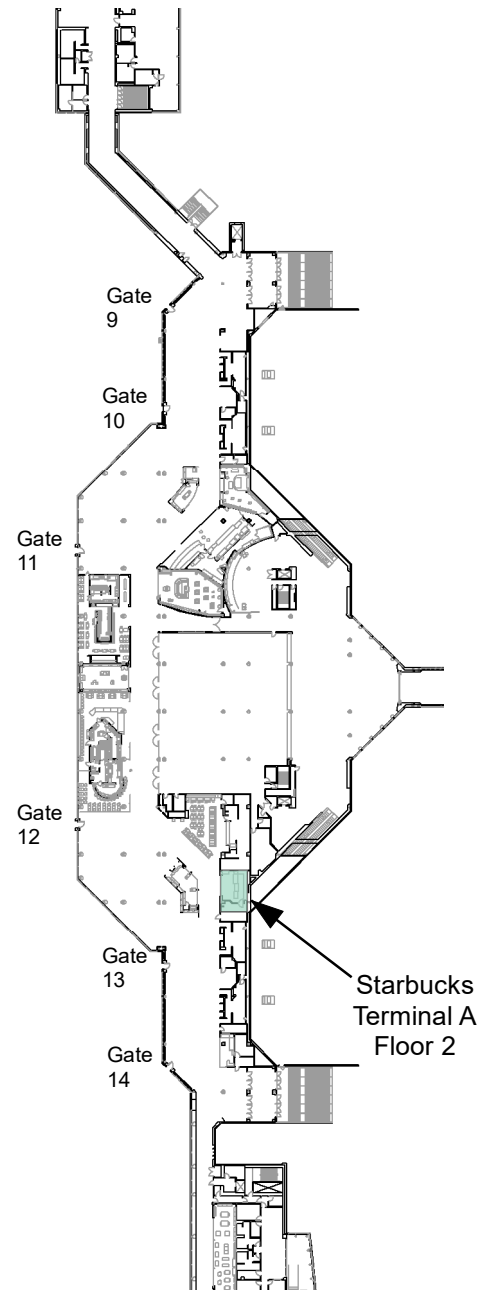
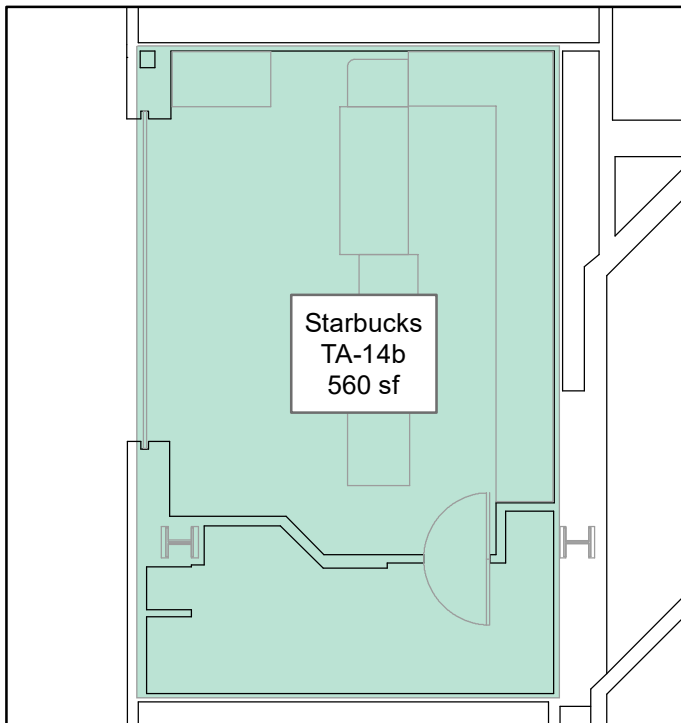




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Host International, Inc.  
Terminal A Floor 2  
B-5





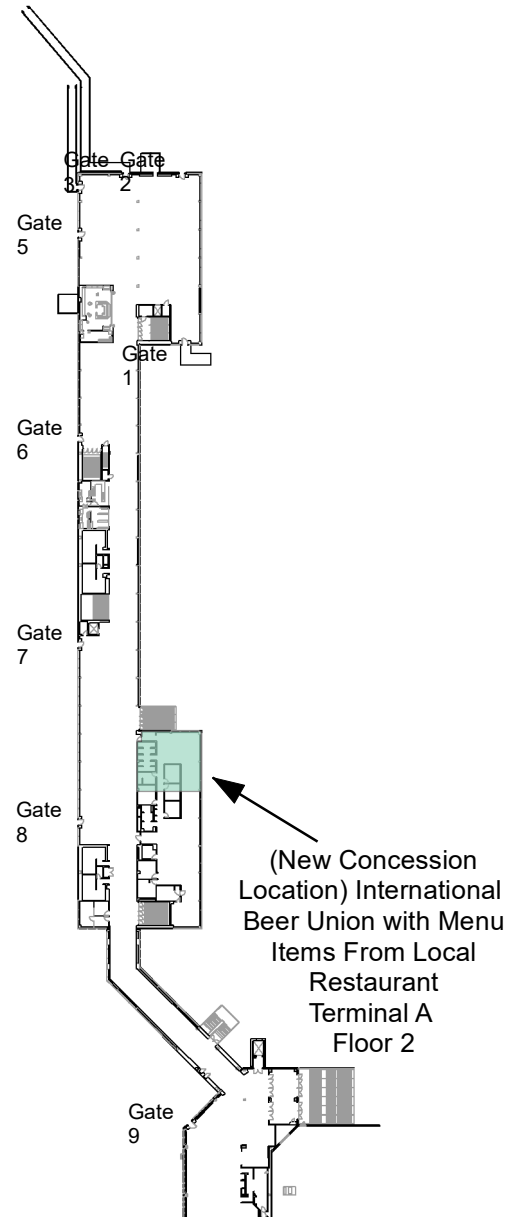
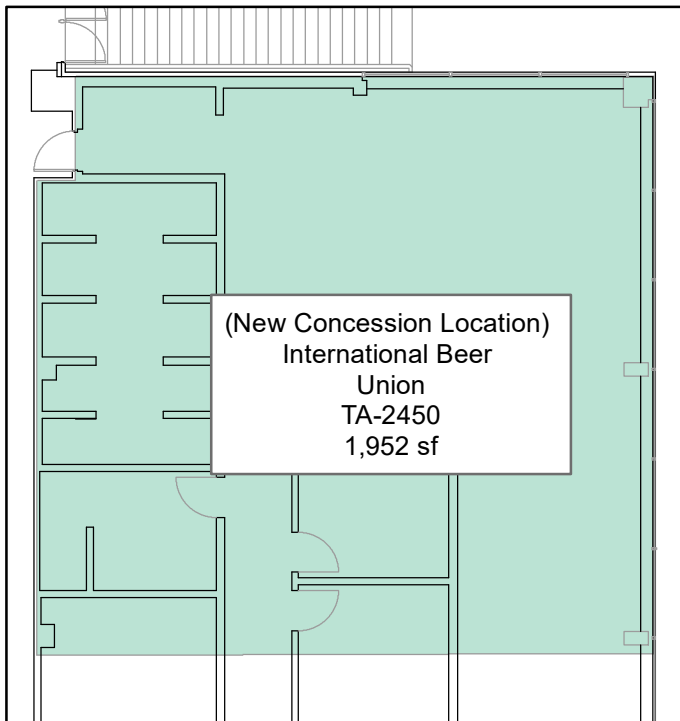
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Host International, Inc.  
Terminal A Floor 2  
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Third Revised Exhibit B

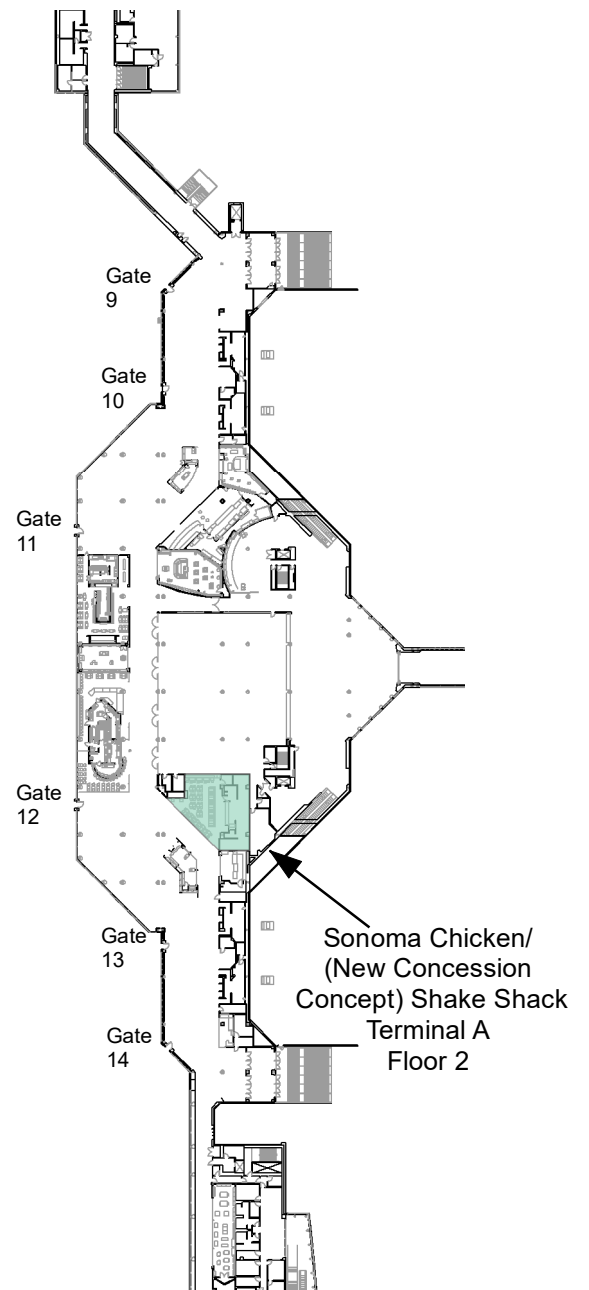
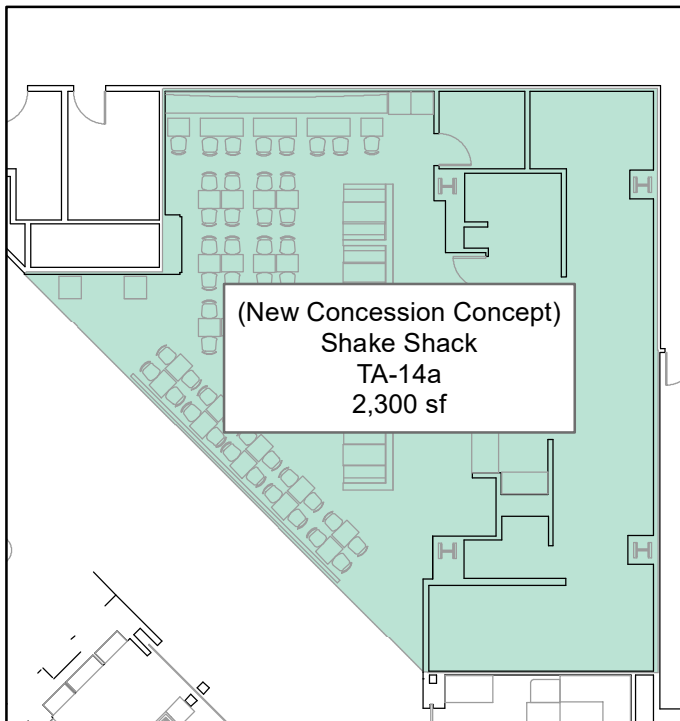


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Terminal A Floor 2  
B-7



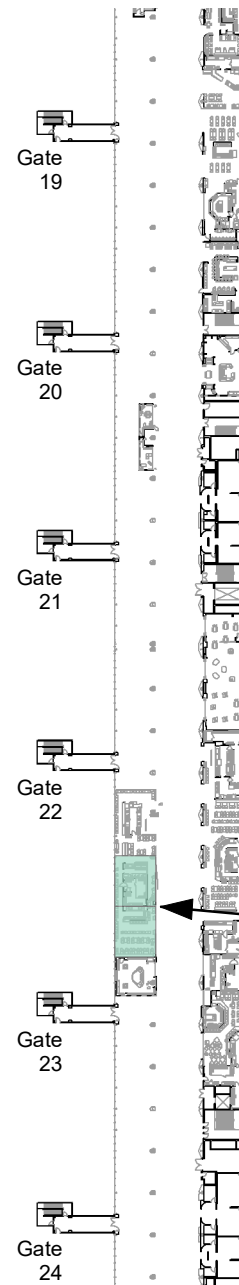
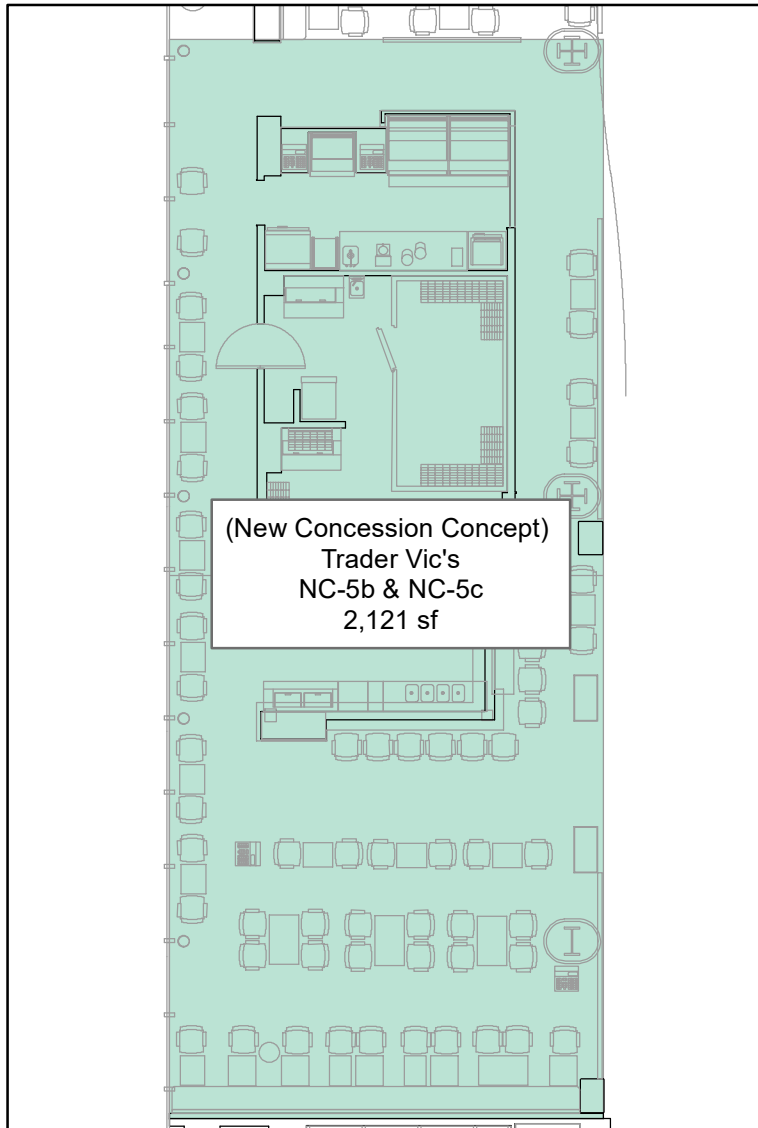
DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or [CityClerk@sanjoseca.gov](mailto:CityClerk@sanjoseca.gov) for final document.



Date: 2/21/2018

Host International, Inc.  
Terminal A Floor 2  
B-8





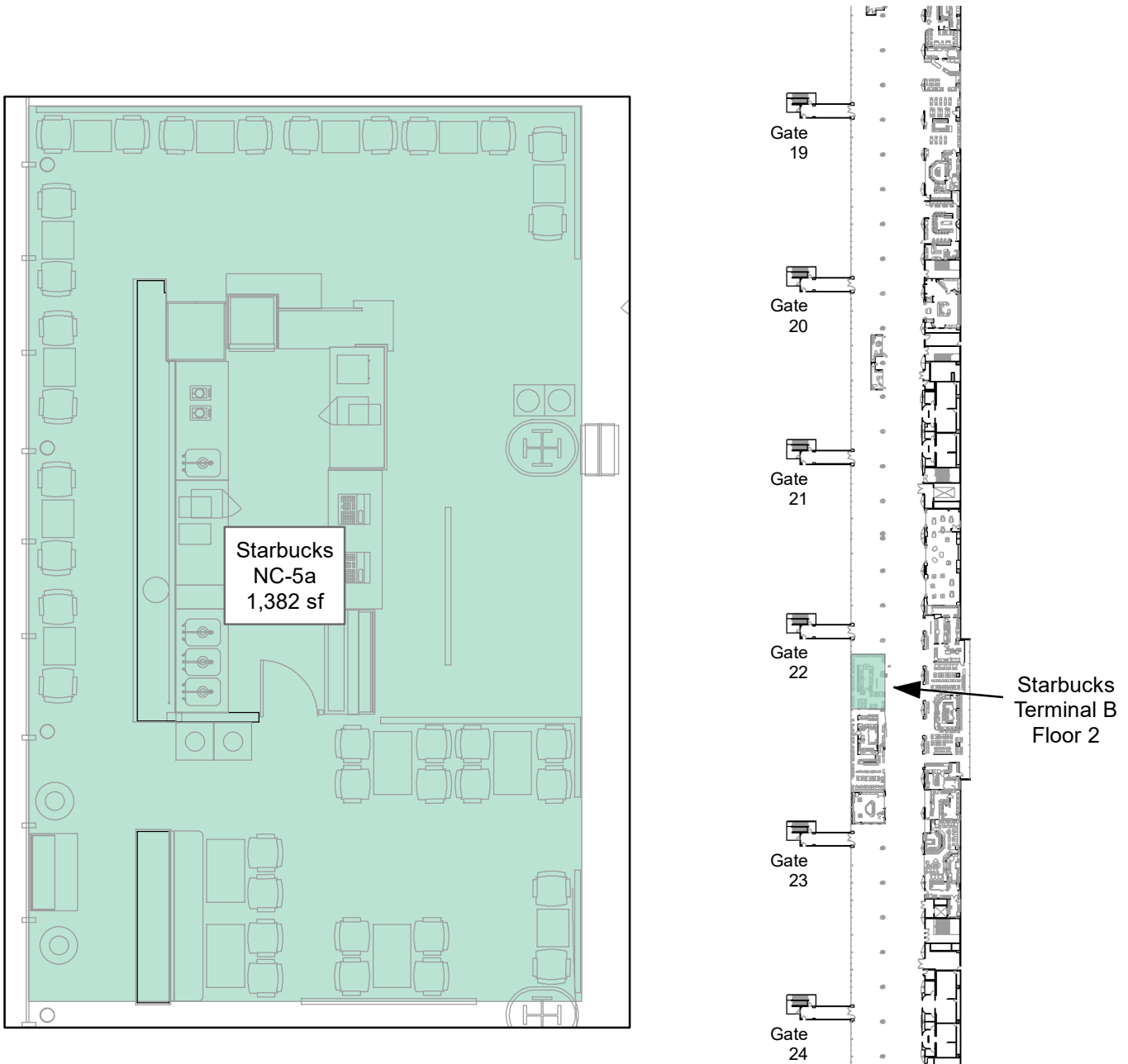
Brioche Doree Cafe &  
Santa Cruz Wine Bar/  
(New Concession  
Concept) Trader Vic's  
Terminal B  
Floor 2



Date: 2/21/2018

Host International, Inc.  
Terminal B Floor 2  
B-9

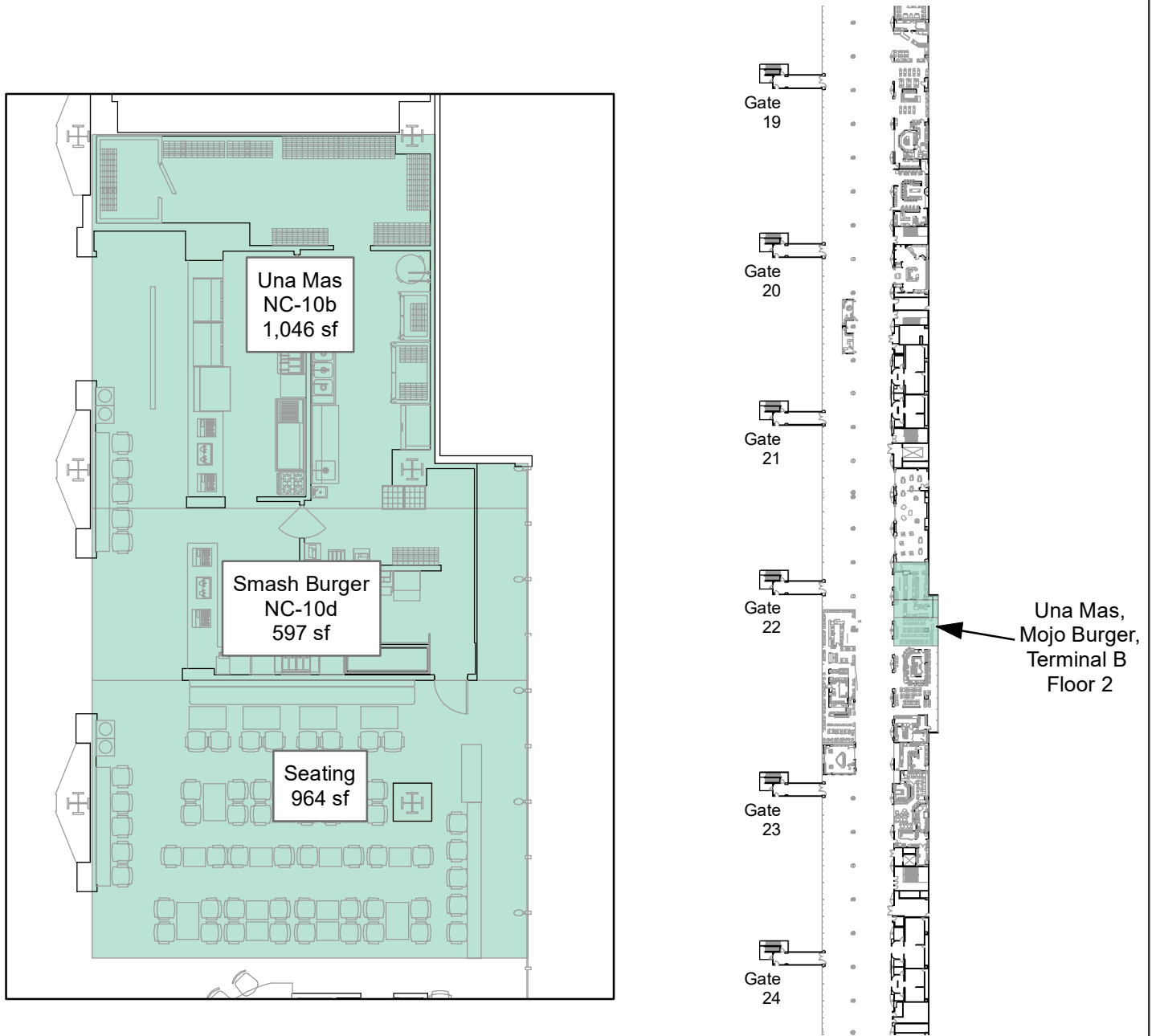




Date: 2/6/2018

Host International, Inc.  
Terminal B Floor 2  
B-10



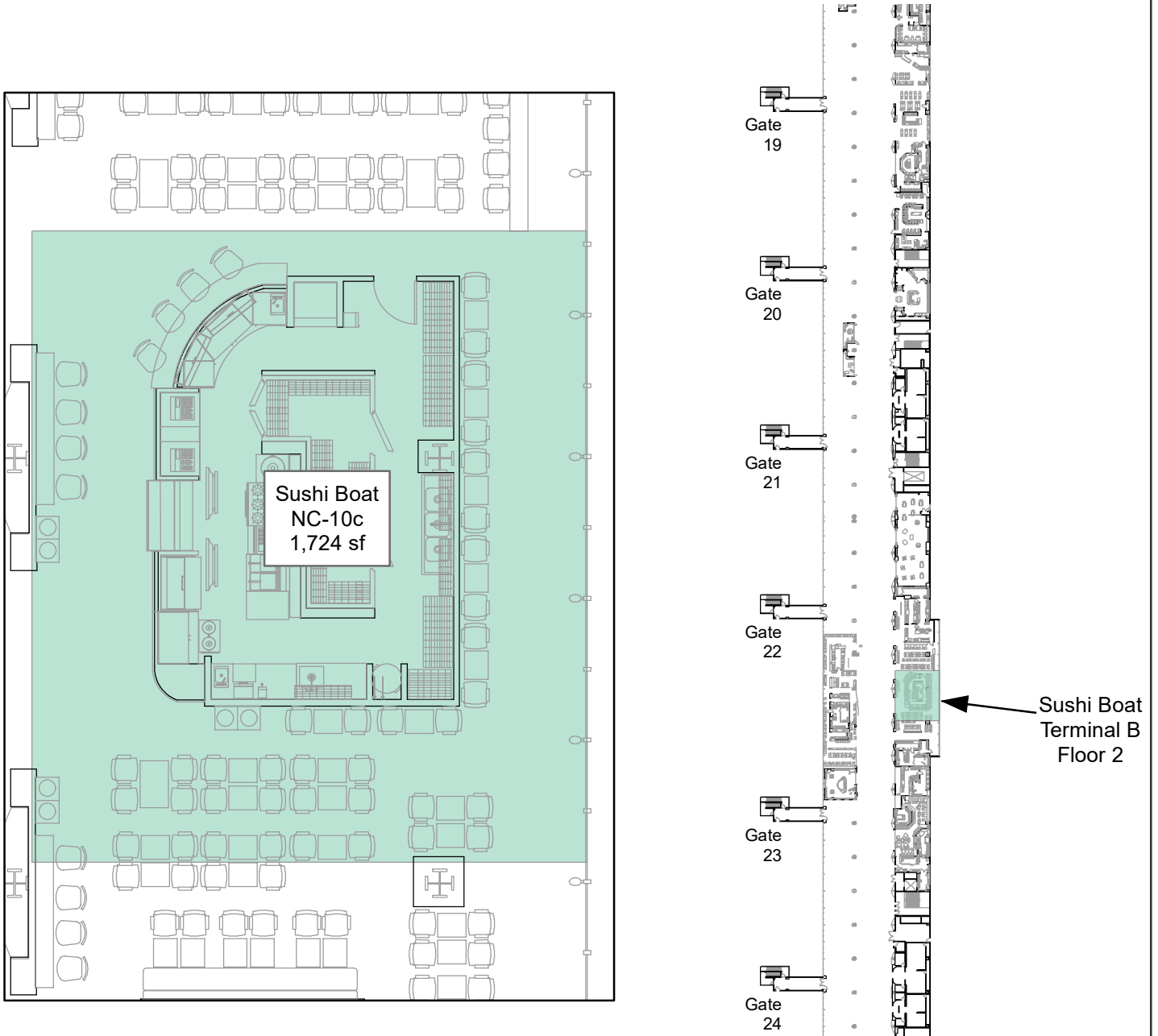


Date: 2/6/2018

Host International, Inc.  
Terminal B Floor 2  
B-11



Third Revised Exhibit B

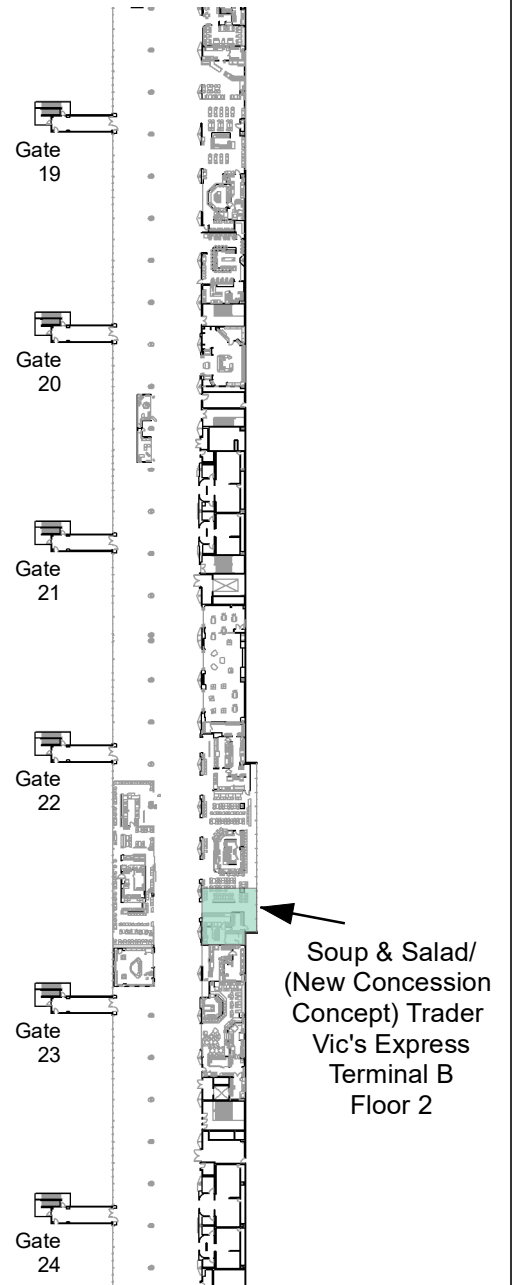
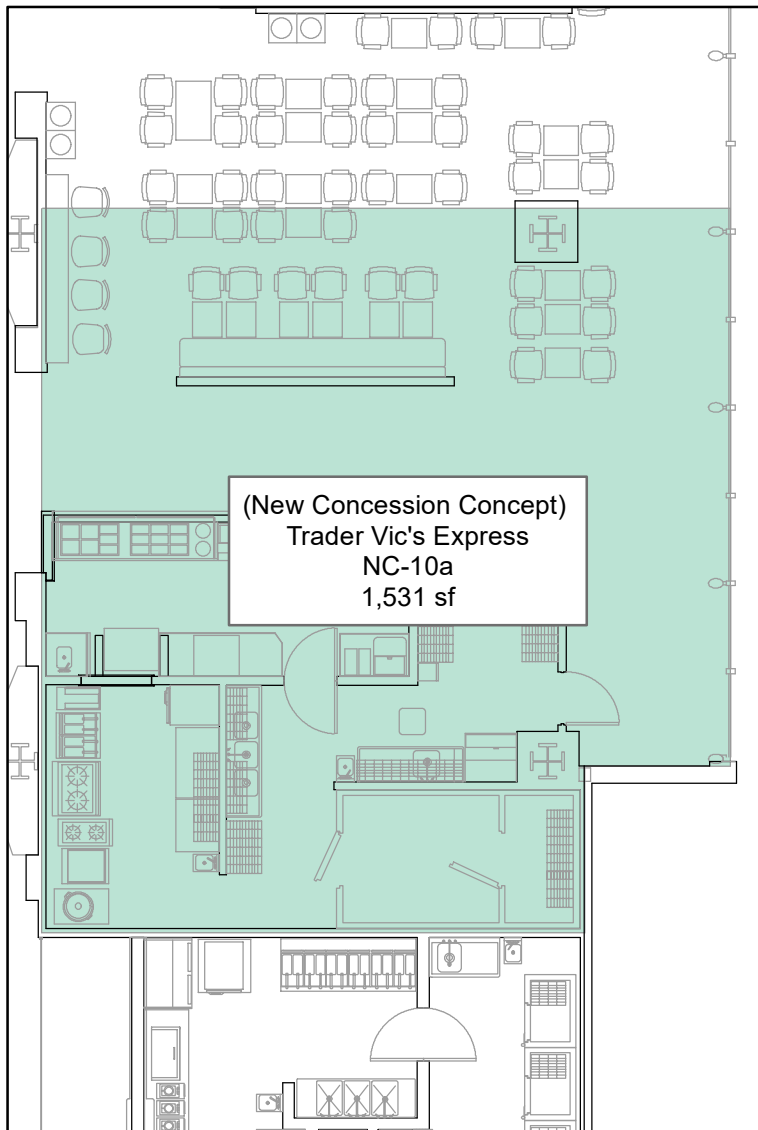


Date: 2/6/2018

Host International, Inc.  
Terminal B Floor 2  
B-12



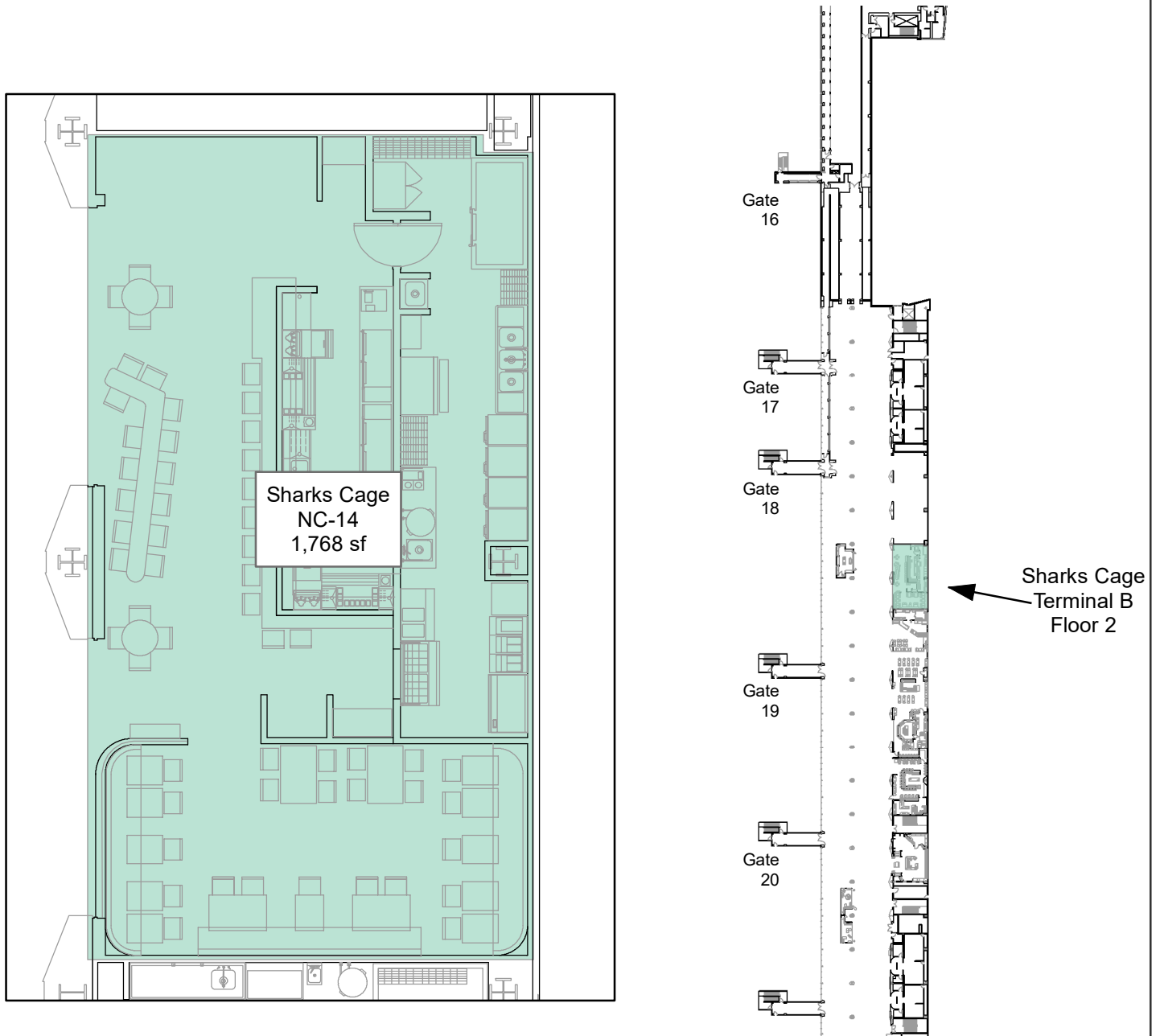
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Date: 2/21/2018

Host International, Inc.  
Terminal B Floor 2  
B-13





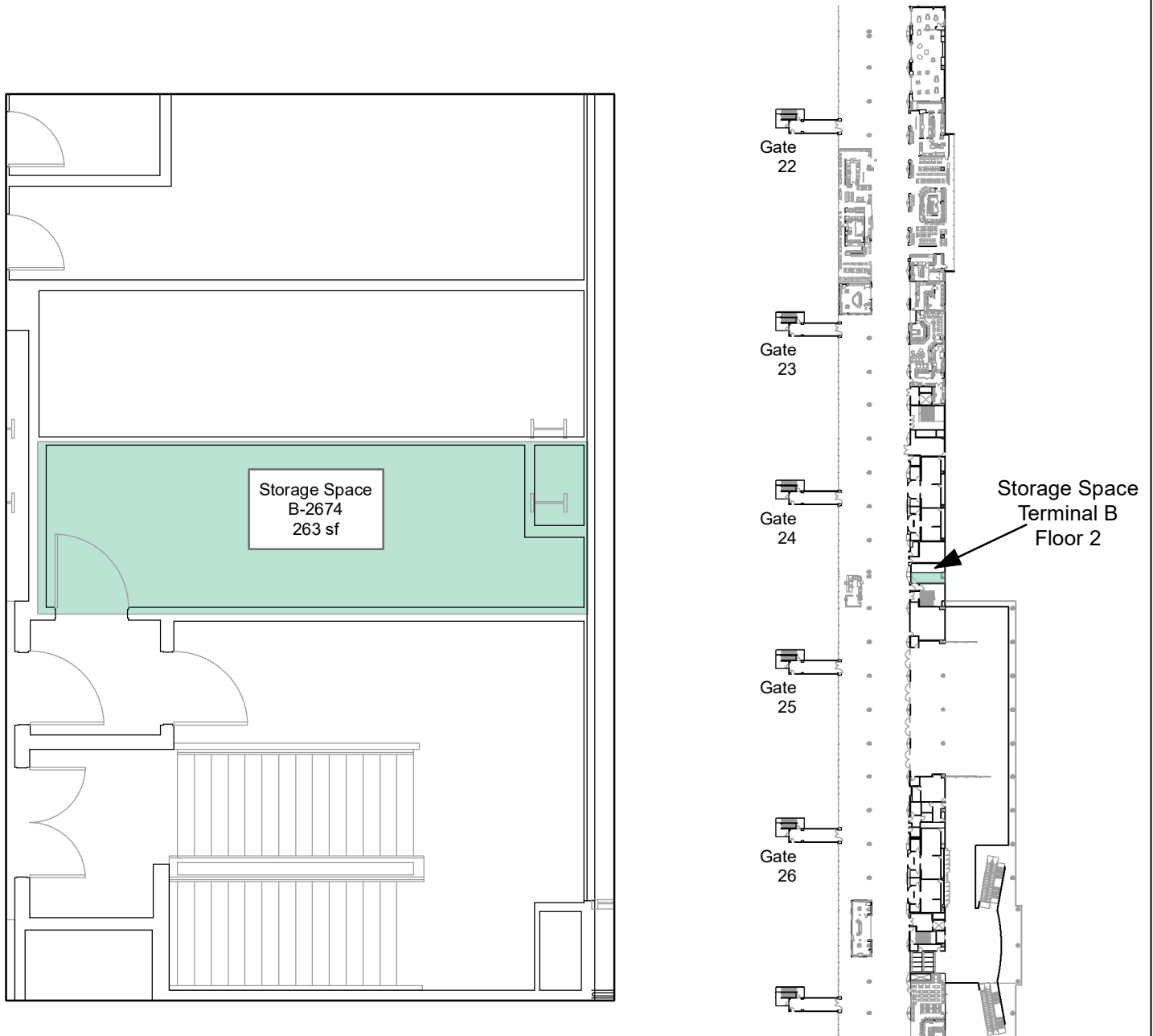
Date: 2/6/2018

Host International, Inc.  
Terminal B Floor 2  
B-14





Third Revised Exhibit B



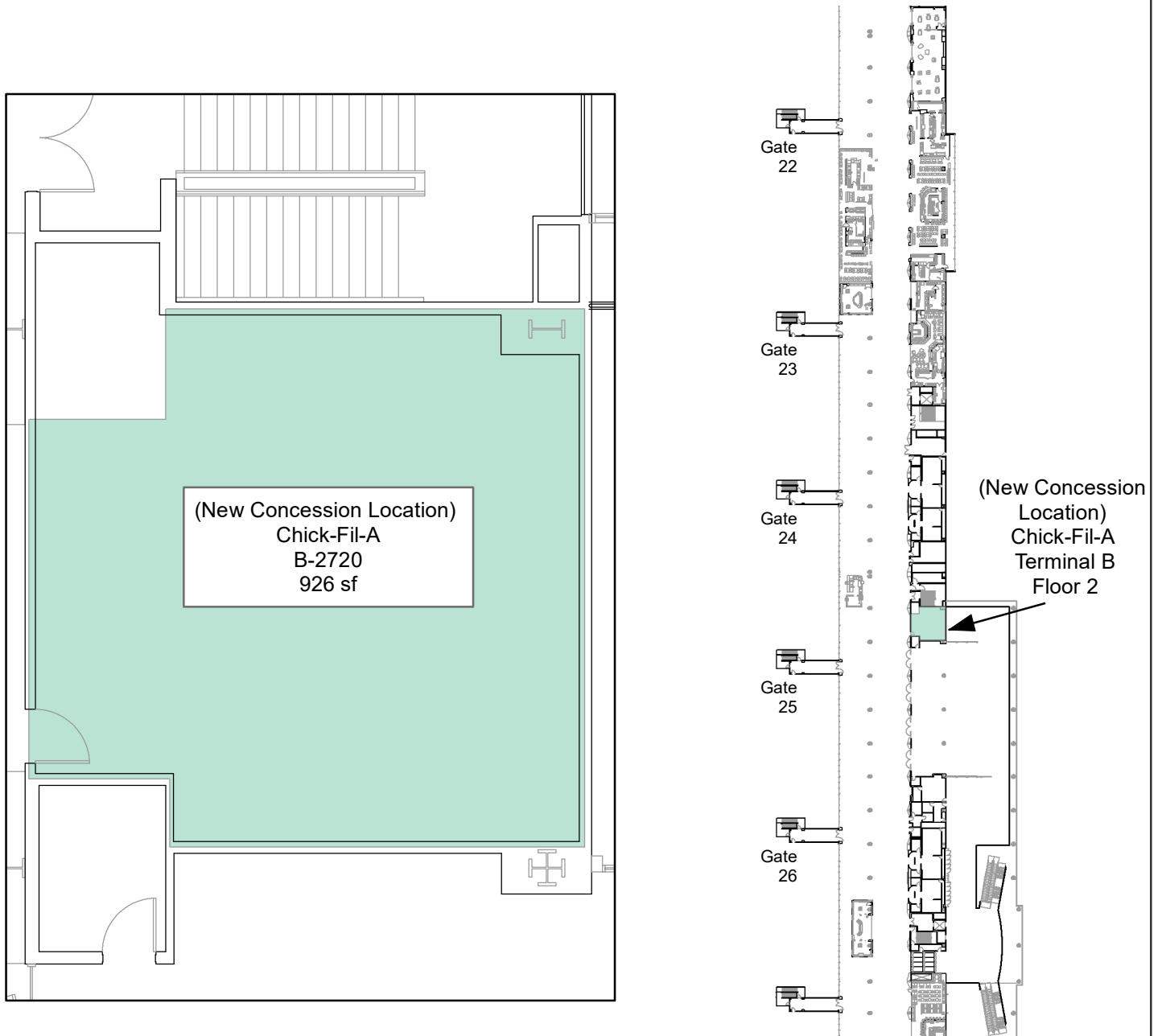
Date: 2/21/2018

Host International, Inc.  
Terminal B Floor 2  
B-15



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Third Revised Exhibit B



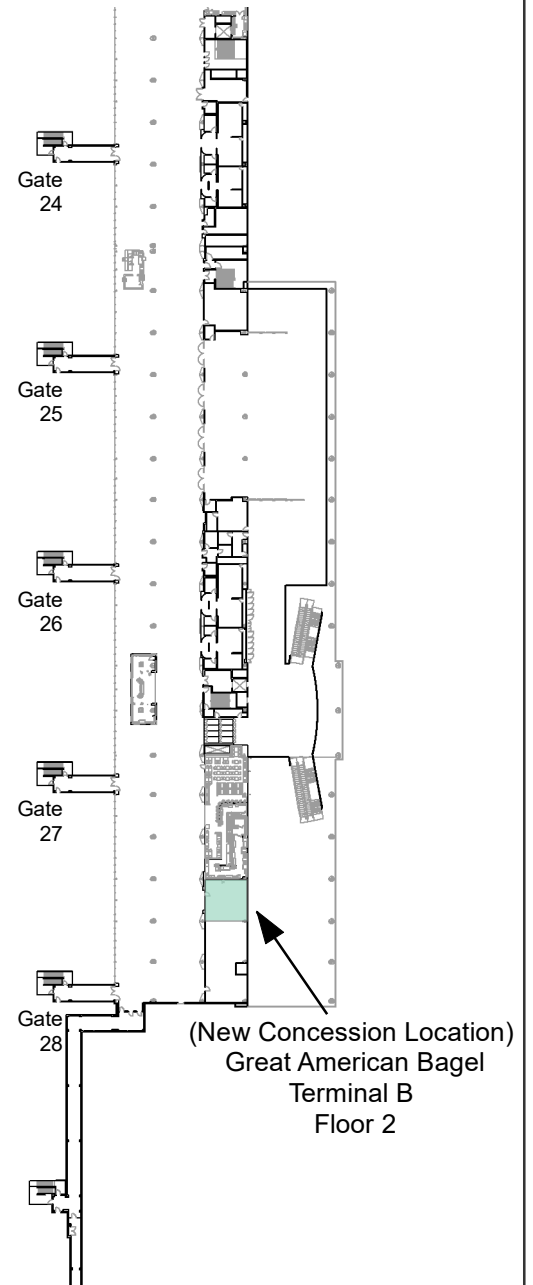
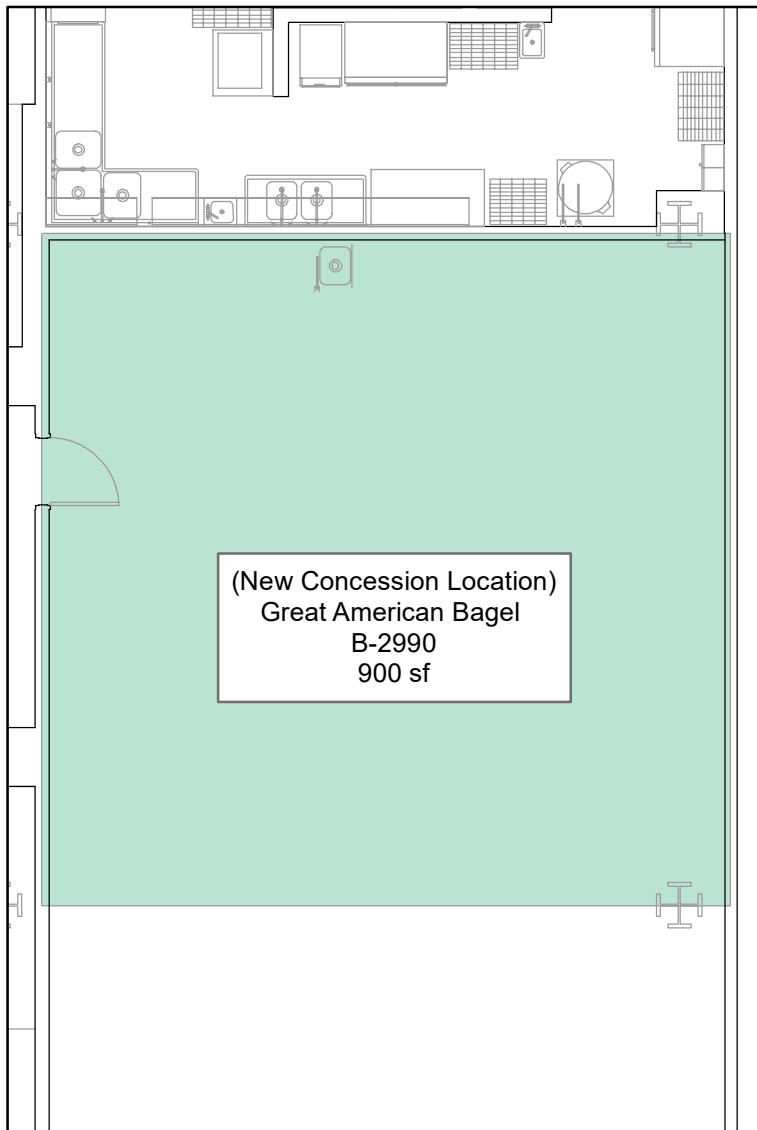
Date: 2/21/2018

Host International, Inc.  
Terminal B Floor 2  
B-16



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Third Revised Exhibit B



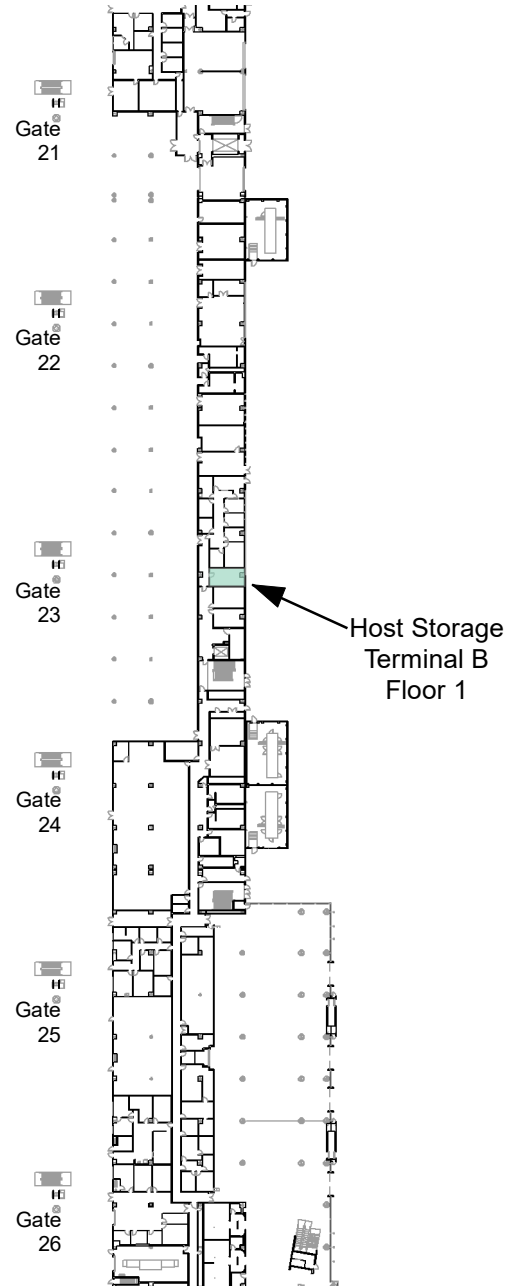
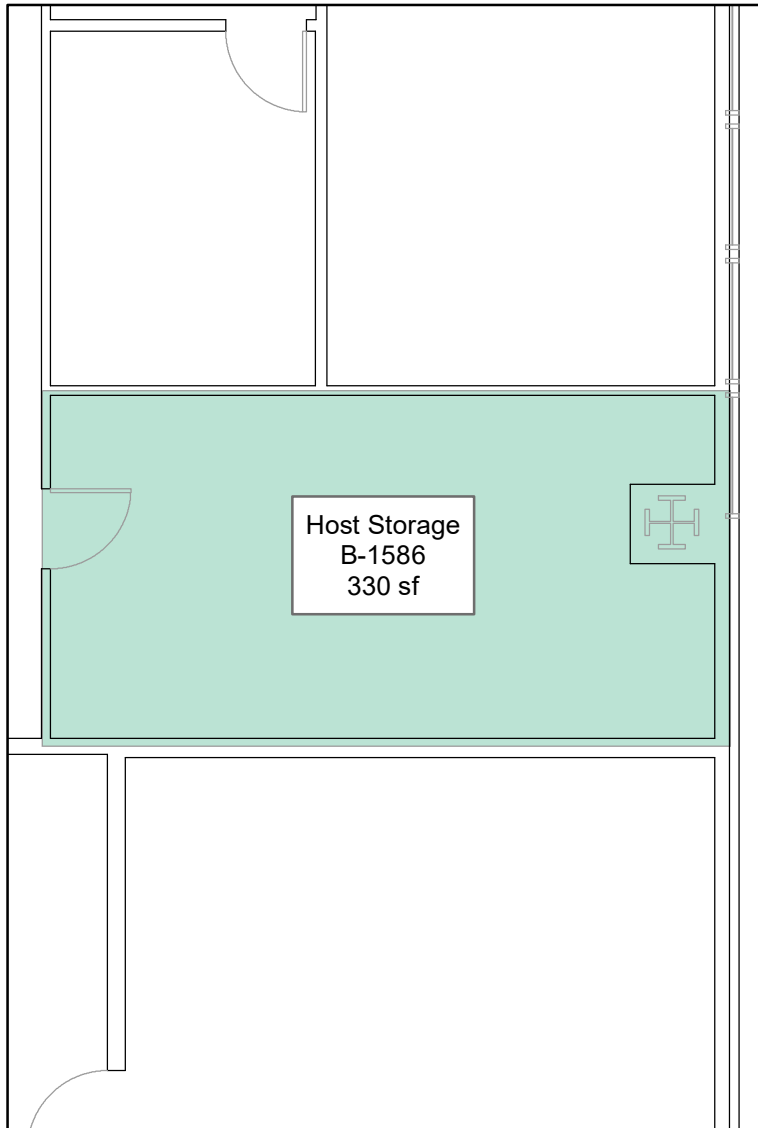
Date: 2/21/2018

Host International, Inc.  
Terminal B Floor 2  
B-17



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Third Revised Exhibit B

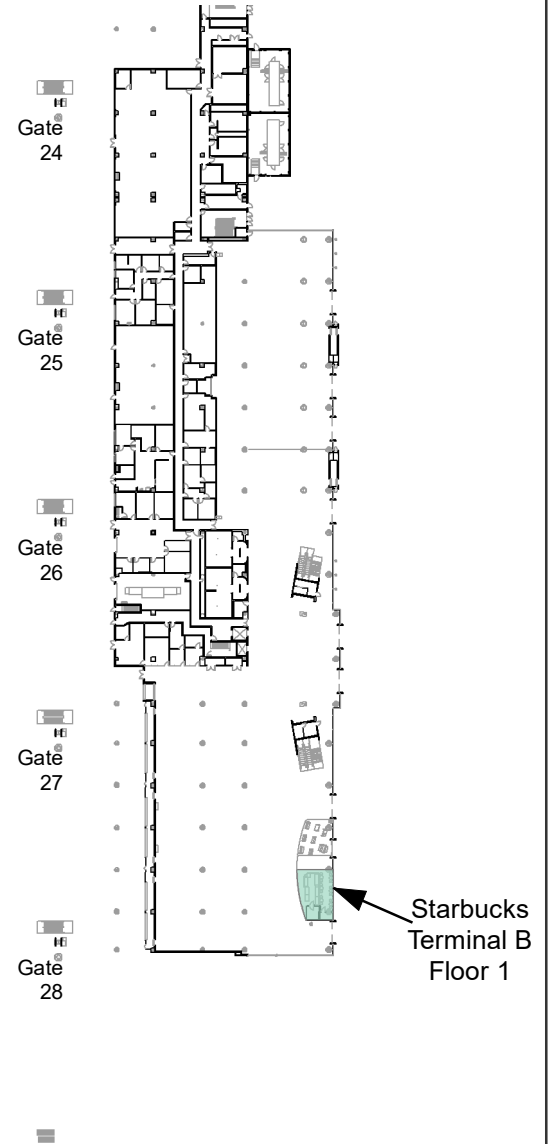
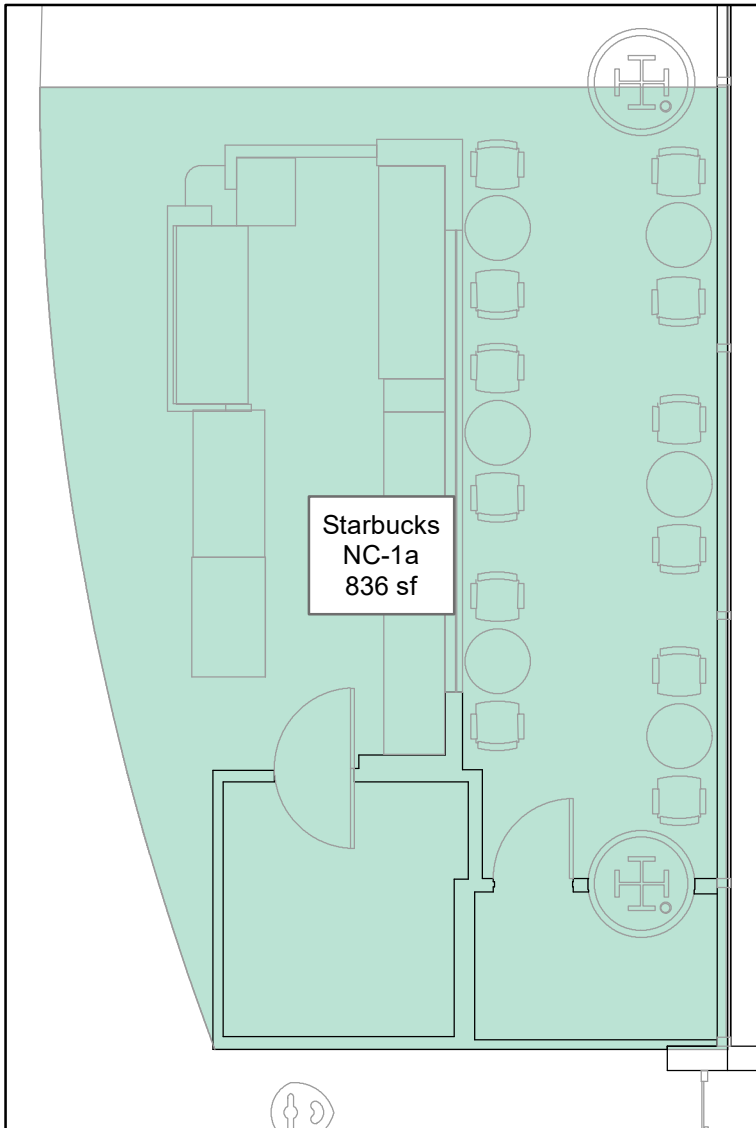


Date: 2/6/2018

Host International, Inc.  
Terminal B Floor 1  
B-18



Third Revised Exhibit B



Date: 2/6/2018

Host International, Inc.  
Terminal B Floor 1  
B-19



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## **REVISED EXHIBIT Q**

### **Pricing Policy**

The intent of the Pricing Policy is for prices and quality of products and services at the Airport to be comparable to off-Airport (street) locations within Santa Clara County, California. Multiple concessionaires operate at the Airport and it is expected that competition for customers will ensure that prices and quality of products and services remain at a level that closely matches street comparables.

### **Pricing Requirements and Comparables**

Concessionaire is responsible for establishing comparable locations for the purpose of instituting a pricing structure for their concessions under the following guidelines:

1. Name brand stores
  - a. If a concession has a street location within Santa Clara County, that location will be designated as a comparable store. Concessionaire may submit comparable pricing from a minimum of one (1) street location and no more than three (3) street locations.
2. Alternate comparable locations
  - a. If a concession does not have a street location in Santa Clara County, the concessionaire and Airport will identify no more than three (3) street locations in Santa Clara County similar in concept, size, and quality.
  - b. If a product or service is not available at the selected street locations, the concessionaire and Airport will identify no more than three (3) alternate street locations in Santa Clara County for that product or service.
  - c. If concessionaire is unable to find a reasonable comparable location within Santa Clara County, the concessionaire shall have the right to request in writing an exemption from the local comparable requirement for approval by the Director. Such request must include reason for requested exemption and provide a detailed explanation of how concessionaire intends to establish pricing for its products or services.
3. Pricing
  - a. Affordable pricing is an essential aspect of the passenger experience at the Airport. It is our goal that prices should be close to prices found on the street but in no case, shall prices exceed 10% of a comparable location or brand located in the Santa Clara County area. If a location does not have an equivalent comparative brand in the vicinity, then the Airport and Concessionaire shall agree to three equivalent locations for comparison.
  - b. Concessionaire must provide a price justification, to be approved by the Airport, for any product that is different in size or quality for purposes of establishing a reasonable comparable price.
4. Protection from competition

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T-2129.008.005 / 1499857\_2.doc

- a. Stores that are partially or fully protected from competition, such as hotels, amusement parks or sports arenas, and locations that operate using off-price or discount pricing structures, shall not be included as comparable locations.
- b. Notwithstanding the preceding paragraph, if a branded concession has a location at either Oakland International Airport or San Francisco International Airport, that airport location may be used as the only comparable location. However, prices cannot exceed the prices at that comparable airport location.

## 5. Product and price submittal

- a. Concessionaire is required to submit a complete product and price list to the Director for approval at least thirty (30) days prior to the initial concession opening. Such product and price list shall detail all products and services available for sale and the requested price. Differences in size or quality of a product or service shall, all other things being equal, be considered by Airport during its review.

## 6. Approval of comparables and pricing

- a. If the Airport and concessionaire are unable to agree on the comparable street locations or prices, the Director will select the comparable street locations for the purpose of establishing prices.

## Pricing Display

### 1. Display of pricing

- a. Concessionaire is required to prominently and clearly display pricing for all products and services offered at any location(s) at the Airport.

### 2. Pre-marked or pre-printed price

- a. Where prices are pre-marked or pre-printed on the item by the distributor or manufacturer, the price charged for the item shall not exceed the pre-marked or pre-printed price.

## Price Adjustments and Prices for New Products

### 1. Written approvals

- a. Concessionaire must obtain Airport's written approval prior to adjusting prices and prior to pricing new products and services. Any request for price adjustments or price approvals for new products and services must be submitted to the Director at least fourteen (14) days prior to either the price increase effective date or availability of a new product or service, as applicable. Price increases shall be based on increases in prices for the same items at the comparable street locations in Santa Clara County.

### 2. Price adjustments

- a. Concessionaire will be allowed to submit pricing adjustments two (2) times per year unless otherwise requested by concessionaire due to market conditions, and as approved by the Director.

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## **Remedies for Exorbitant Prices and/or Insufficient Quality**

### **1. Review of pricing and quality**

- a. At any time, the Director may survey prices and the quality of products and services then in effect at comparable street locations in Santa Clara County. If the Director determines that any prices being charged by concessionaire at the Airport are exorbitant compared to street pricing as identified in the survey, or that any product or service being offered by concessionaire is of insufficient quality compared to the street locations, the concessionaire is required to submit, within seven (7) days, a product and price list with comparables as required in the Pricing Policy. Prices must be adjusted within seven (7) days of the Director's approval.

### **2. Remedies**

- a. Should the concessionaire not provide an acceptable price list with comparables within seven (7) days, the products or services must be removed immediately from the concession location or may be offered at street pricing plus ten percent (10%) as determined by the Director.
- b. Should the concessionaire not replace products or services of insufficient quality with items of sufficient quality within seven (7) days, the products or services must be removed immediately from the concession location.

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## CORPORATE SECRETARY CERTIFICATE

This certificate shall be executed by the secretary or assistant secretary of the corporation.

I, \_\_\_\_\_ certify that I  
Name of Secretary or Assistant Secretary

am the ☐ Secretary or ☐ Assistant Secretary of the corporation named in the

attached agreement; that \_\_\_\_\_  
Name of Person that Signed Agreement

signed the agreement on behalf of the corporation as the \_\_\_\_\_  
Title of Person that Signed the Agreement

of the corporation; and that the agreement was duly signed for and in behalf of

the corporation by authority of its Board of Directors, and is within the scope of its

corporate powers.

\_\_\_\_\_  
Signature of Secretary or Assistant Secretary

\_\_\_\_\_  
Corporate Seal

\_\_\_\_\_  
Date